



Staff Report

Agenda Item: **WORKSESSION ON MEDICAL MARIJUANA ZONING ORDINANCE DEVELOPMENT**

Staff Contact: Sherry Bailey, Community Development Director

Meeting Date: November 16, 2010

Background:

The Arizona voters have approved Proposition 203, the Medical Marijuana Initiative. As a result communities are trying to establish zoning to accommodate the non-profit dispensaries, the cultivation district, and the production facility district. The League of Cities and Town along with planning groups, attorneys and public safety members have been working on a model ordinance that could give guidance to communities that may be faced with requests for facility location within their jurisdiction. If communities have not adopted regulations addressing placement of these facilities there is no way to regulate where they are located. The model ordinance developed by the League proposes that the following criteria could be addressed in a zoning ordinance:

- Location limited to certain kinds of standardized zoning such as C-2 or C-3.
Dispensaries may be treated like adult oriented businesses, tattoo parlors, etc.
- Dispensaries could be subject to revocable use permits, conditional use permits, depending on the zoning categories of the city or town.
- Distance requirements from churches, schools, etc. (The initiative prohibits dispensaries from locating within five hundred feet of a public or private school in existence at the time of the application.)
- Cities that have a general business license may require the dispensaries to acquire one as with any other retail business.
- Requirement of a security plan. (The initiative requires an on-site alarm system and limit of only one locked entrance.)
- Limit on hours of operation.
- Maximum square footage
- Sign regulation. (There may be some advantage in actually having some signage present so customers will know where the dispensary is located and will not be annoying other businesses in search of it.)
- Dispensaries must be located in a permanent structure.
- Drive-through and off-site delivery prohibited.
- No on-site seating or on-premises consumption allowed.

Staff has included a copy of the model zoning ordinance in your council packet. In reviewing Clarkdale's zoning ordinance, we could amend either the commercial or industrial zones to accommodate the uses and do so under the conditional use permit application process.

Recommendation:

This is a worksession only and requires no action by council. However, it is anticipated that council will be giving direction to staff.

October 28, 2010

Medical marijuana model ordinance-Arizona
(Comments and options noted in italics)

Amend Definition Section of the ordinance by adding definitions as follows:

Medical Marijuana: Means of all parts of the genus cannabis whether growing or not, and the seed of such plants that may be administered to treat or alleviate a qualifying patients debilitating medical condition or symptoms associated with the patient's debilitating medical condition.

Medical Marijuana Cultivation: The process by which a person grows a marijuana plant. A facility shall mean a building, structure or premises used for the cultivation or storage of medical marijuana that is physically separate and off-site from a medical marijuana dispensary.

Medical Marijuana Dispensary: A non-profit entity defined in A.R.S. § 36-2801(11), that sells, distributes, transmits, gives, dispenses, or otherwise provide medical marijuana to qualifying patients.

Medical Marijuana Infusion (or Manufacturing) Facility: A facility that incorporates medical marijuana (cannabis) by the means of cooking, blending, or incorporation into consumable/edible goods. (*May be combined with Cultivation definition.*)

Medical Marijuana Qualifying Patient: A person who has been diagnosed by a physician as having a debilitating medical condition as defined in A.R.S. § 36-2801.13.

Amend the agricultural district (s) by adding language to allow medical marijuana cultivation as a permitted use as follows:

___ Medical Marijuana Cultivation, subject to the following conditions and limitations:

a. Applicant shall provide:

- 1) the name(s) and location(s) of the offsite medical marijuana dispensary associated with the cultivation operation.

- 2) a copy of the operating procedures adopted in compliance with A.R.S. §36-2804(B)(1)(c) and
 - 3) a survey sealed by a registrant of the State of Arizona showing the location of the nearest medical marijuana dispensary or cultivation location if within _____ feet.
- b. Retail sales of medical marijuana is prohibited.
 - c. Shall not be located within _____ feet of the same type of use or a medical marijuana dispensary. This distance shall be measured from the exterior walls of the building or portion thereof in which the businesses are conducted or proposed to be conducted.
 - d. Shall not be located within _____ feet of a residentially zoned property. This distance shall be measured from the exterior walls of the building or portion thereof in which the cultivation business is conducted or proposed to be conducted to the property boundary line of the residentially zoned property. (*Option: measuring distance from lot line to lot line.*)
 - e. Shall not be located within _____ feet of a preschool, kindergarten, elementary, secondary or high school, place of worship, public park or community center. This distance shall be measured from the exterior walls of the building or portion thereof in which the cultivation business is conducted or proposed to be conducted to the property line of the protected use.

Amend the Intermediate Commercial zoning district to allow medical marijuana dispensaries as a permitted use with conditions as follows:

Permitted Uses (sample insert to an existing ordinance):

99. Merchandise Brokers Office and Display
100. Medical Marijuana Dispensary (No Cultivation), subject to the following conditions and limitations:
 - a. Applicant shall provide:
 - 1) the name(s) and location(s) of the offsite medical marijuana dispensary associated with the cultivation operation.

- 2) a copy of the operating procedures adopted in compliance with A.R.S. §36-2804(B)(1)(c) and
 - 3) a survey sealed by a registrant of the State of Arizona showing the location of the nearest medical marijuana dispensary or cultivation location if within _____ feet.
 - 4) site plan, floor plan, building permits for occupancy change, and a security plan.
- b. Shall be located in a permanent building and may not locate in a trailer, cargo container or motor vehicle.
 - c. Shall be a maximum _____ gross square feet. (*Size limitation should be factored based on building code for a one door occupancy.*)
 - d. Shall not be located within _____ feet of the same type of use. This distance shall be measured from the exterior walls of the building or portion thereof in which the businesses are conducted or proposed to be conducted.
 - e. Shall not be located within _____ feet of a residentially zoned property. This distance shall be measured in a straight line from the exterior walls of the building or portion thereof in which the business is conducted or proposed to be conducted to the zoning boundary line of the residentially zoned property.
 - f. Shall not be located within _____ feet of a preschool, kindergarten, elementary, secondary or high school, place of worship, public park, or public community center. This distance shall be measured in a straight line from the exterior walls of the building or portion thereof in which the business is conducted or proposed to be conducted to the property line of the protected use.
 - g. Shall have operating hours not earlier than _____ a.m. and not later than _____ p.m.
 - h. Drive-through services are prohibited.
 - i. Cultivation of medical marijuana is prohibited.
 - j. Shall provide for proper disposal of marijuana remnants or by-products, and not to be placed within the facility's exterior refuse containers.

400101. Messenger Service

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Amend the light industrial district) as follows.

90. Meat Packing and Smoking (no slaughtering except rabbits and poultry)
91. Medical Marijuana Cultivation, subject to the following conditions and limitations:
 - a. Applicant shall provide:
 - 1) name(s) and location(s) of the offsite dispensary.
 - 2) a copy of the operating procedures adopted in compliance with A.R.S. §36-2804(B)(1)(c).
 - 3) a survey sealed by a registrant of the State of Arizona showing the location of the nearest medical marijuana dispensary or cultivation location if within _____ feet.
 - b. Shall not be located within _____ feet of the same type of use. This distance shall be measured from the exterior walls of the building or portion thereof in which the businesses are conducted or proposed to be conducted.
 - c. Shall not be located within _____ feet of a residentially zoned property. This distance shall be measured in a straight line from the exterior walls of the building or portion thereof in which the business is conducted or proposed to be conducted to the zoning boundary line of the residentially zoned property.
 - d. Shall not be located within _____ feet of a preschool, kindergarten, elementary, secondary or high school, place of worship, public park, or public community center. This distance shall be measured in a straight line from the exterior walls of the building or portion thereof in which the business is conducted or proposed to be conducted to the property line of the protected use.
92. Medical Marijuana Dispensary, subject to the following conditions and limitations:

a. Applicant shall provide:

- 1) name and location of the offsite cultivation location, if applicable.
- 2) a copy of the operating procedures adopted in compliance with A.R.S. §36-2804(B)(1)(c).
- 3) a survey sealed by a registrant of the State of Arizona showing the location of the nearest medical marijuana dispensary or cultivation location if within _____ feet.

b. Shall be located in a permanent building and may not be located in a trailer, cargo container or motor vehicle.

c. Shall be a maximum _____ gross square feet.

d. Shall not be located within _____ feet of the same type of use. This distance shall be measured from the exterior walls of the building or portion thereof in which the businesses are conducted or proposed to be conducted.

e. Shall not be located within _____ feet of a residentially zoned property. This distance shall be measured in a straight line from the exterior walls of the building or portion thereof in which the business is conducted or proposed to be conducted to the zoning boundary line of the residentially zoned property.

f. Shall not be located within _____ feet of a preschool, kindergarten, elementary, secondary or high school, place of worship, public park, or public community center. This distance shall be measured in a straight line from the exterior walls of the building or portion thereof in which the business is conducted or proposed to be conducted to the property line of the protected use.

g. Shall have operating hours not earlier than _____ a.m. and not later than _____ p.m.

h. Drive-through services are prohibited.

93. Medical Marijuana Infusion (or Manufacturing) Production Facility

a. Applicant shall provide:

- 1) name(s) and location(s) of the offsite dispensary.

- 2) a copy of the operating procedures adopted in compliance with A.R.S. §36-2804(B)(1)(c).
 - 3) a survey sealed by a registrant of the State of Arizona showing the location of the nearest medical marijuana dispensary or cultivation location if within _____ feet.
- b. The facility shall not be located within _____ feet of the same type of use. This distance shall be measured from the exterior walls of the building or portion thereof in which the businesses are conducted or proposed to be conducted.
 - c. The facility shall not be located within _____ feet of a residentially zoned property. This distance shall be measured in a straight line from the exterior walls of the building or portion thereof in which the businesses are conducted or proposed to be conducted to the zoning boundary line of the residentially zoned property.
 - d. The facility shall not be located within _____ feet of a preschool, kindergarten, elementary, secondary or high school, place of worship, public park, or public community center. This distance shall be measured in a straight line from the exterior walls of the building or portion thereof in which the business is conducted or proposed to be conducted to the property line of the protected use.
 - e. There shall be no emission of dust, fumes, vapors, or odors into the environment from the facility.

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